

Motion To Dismiss The Two Attached Federal Cases.

The plaintiff moves the court as follows:

1. To dismiss the action because the complaint fails to state a claim against defendant upon which relief can be granted.

Please take notice, that the undersigned will bring the above motion on for hearing before the United States District Court, San Jose Division, on any day specifically specified by the court.,

Signed: Erik Estavillo  
Attorney for Plaintiff, Erik Estavillo Proceeding Pro Se.  
Address: 3284 Cortese Circle, San Jose, CA. 95127

First Case Case 5:09-PVT-05485  
PVT

2010 JAN 29 A 10:56  
Second Case = C10-00882  
RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
N.D. OF CALIFORNIA, SAN JOSE  
H2L

C/PVT  
Erik Estavillo  
January 29<sup>th</sup>, 2010  
~~\_\_\_\_\_~~

Erik Estavillo  
3284 Cortese Circle  
San Jose, CA 95127  
(408) 926-7224

FILED

2009 NOV 18 P 3:42

RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
N.D. CA. SAN JOSE

Plaintiff

ADR

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

ERIK ESTAVILLO,

Plaintiff,

vs.

MICROSOFT CORPORATION and,  
NINTENDO OF AMERICA, INCORPORATED

Defendant.

C09 05485

Complaint

Date: November 18, 2009

PVT

1. **Jurisdiction.** The counts in this complaint involve the U.S. Constitution, its laws, or treaties of the United States (28 U.S.C § 1331). More specifically, the Seventh Amendment and United States Declaration of Independence.
2. **Venue.** Venue is appropriate in this court because the disabled plaintiff resides in San Jose, California and is unable to physically travel or afford to travel to Redmond, Washington where both defendants reside.
3. **Intradistrict Assignment.** This lawsuit should be assigned to the San Jose Division of this Court because it was in San Jose that these events and violations to the disabled plaintiff occurred.

*Erik Estavillo*

Erik Estavillo  
3284 Cortese Circle  
San Jose, CA 95127  
(408) 926-7224

Plaintiff

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

Erik Estavillo,	)	Complaint
Plaintiff,	)	
	)	Date: January 25 <sup>th</sup> , 2010
vs.	)	
	)	
Gamespot.com, IGN.com, G4TV.com,	)	
Gameinformer.com, 1UP.com, Joystiq.com,	)	
Kotaku.com, Gaygamer.com, QJ.net,	)	
Sarcasticgamer.com, Mmorpg.com, NBC, FOX,	)	
and DepecheMode.com	)	
	)	
Defendants.	)	
	)	

1. **Jurisdiction.** The counts in this complaint involve the U.S. Constitution and other Federal statutes and laws, or treaties (28 U.S.C. § 1331). More specifically having to do with journalistic libel (written defamation and journalistic misrepresentation of the facts), on a national level.
2. **Venue.** The venue is appropriate in this court because the disabled plaintiff resides in San Jose, California and is unable to travel to all the jurisdictions in which the multiple defendants reside.
3. **Intradistrict Assignment.** This lawsuit should be assigned to the San Jose Division of this court because it was in San Jose that the violations to the disabled plaintiff occurred.